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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/582,945	07/07/2000	RUDOLF RITTER	PM271464	4546

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EXAMINER	
D AGOSTA, STEPHEN M	

ART UNIT	PAPER NUMBER
2683	21

DATE MAILED: 04/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/582,945	RITTER, RUDOLF	
	Examiner	Art Unit	
	Stephen M. D'Agosta	2683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 March 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 and 3-19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 and 3-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments, see amendment, filed 3-15-04, with respect to the rejection(s)of claim(s) 1 and 3-19 under USC 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Goodman.

- Interview held on 3-25-02 between applicant's lawyers and examiner determined that the examiner would provide another non-final rejection.

Claim Objections

Claims 1 and 14 objected to because of the following informalities: the claims recite a radio or television "receiver" but then state "sending a message" - which inherently requires a transmitter. The examiner requests that the term be changed to "transceiver" since radios/televisions are not typically outfitted with transmitting hardware. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 3, 5-6, 8, 13-15 and 19 rejected under 35 U.S.C. 103(a) as being unpatentable over Goodman US 5,594,779 in view of Knox US 6,212,359 (hereafter Goodman and Knox).

As per **claims 1 and 14**, Goodman teaches a telecommunication method, comprising:

Receiving, by a mobile device containing a radio receiver and/or television receiver therein, digital data, (C3, L54-62 teaches audio reception and C3, L64-67 and C4, L12-21 teaches listener having audio program selection);

Reproducing, by the mobile device, the media program on the mobile device (C3, L54-63 teaches listener receiving audio/video program);

Entering a command by the user (C10, L8-17);

Preparing a message corresponding to the entered command, the prepared message including at least one data field from the received digital data (C10, L8-28 teaches the user selecting an audio program and sending the selection to the audio provider which reads on the user selecting from a menu sent from the audio provider and said user sending back their selection which inherently includes data from the received menu); and

Sending the prepared message over a mobile radio network (C10, L22-28).

But is silent on digital data being sent as program-accompanying data in a media program AND wherein the mobile device includes an identification card by which a user of the mobile device is identified AND an identification of the user determined from the identification card AND displaying information, corresponding to the received digital data, on a display of the mobile device.

Goodman teaches mobile phone registration (C9, L27-65) which requires the phone to be authenticated. SIM cards are well known in the cellular art and provide means for the system to authenticate the user via information stored on said SIM card – which reads on use of an identification card. The examiner also notes that the authentication process is constantly performed to ensure that the user requesting service is who they say they are – which reads on sending a message with the ID of the user (eg. it can be the user's phone number, etc.).

The examiner notes that Goodman lacks hard design criteria regarding the user's selection (eg. is it based on just listening to a program or is it based on receiving "digital data" which accompanies the audio data), hence the examiner errs on the side of caution and states that Goodman is silent. **Knox** teaches a wireless transceiver for digital music (title, abstract) whereby the user can receive digital audio signals and

corresponding program information and display said corresponding program information on a display (abstract, figure 3 and C2, L60 to C3, L33). The examiner notes that Knox also teaches two-way interaction (eg. sending messages) between user and service provider (C3, L20-27 and C8, L1-13).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Goodman, such that program-accompanying data is sent AND an identification card is used to identify the user and their messages AND program information is displayed on the mobile device, to provide means to view/select programs and identify an authenticated user to receive data.

As per **claim 3**, Goodman in view of Knox teaches claim 1 **but is silent on** wherein the displayed information contains at least one menu from which a command can be sent (C7, L19 to C8, L14 which describes operation of the mobile device using keypad/buttons and MODES which reads on navigation via menu. The examiner also notes that Goodman likens operation of the device to that of currently popular wireless devices which are known to use menus. Lastly, menu navigation is well known in the art for devices such as cell phones). *Also see Bottum US 6,014,569 which was previously provided but is not cited.*

As per **claim 5**, Goodman in view of Knox teaches claim 1 **but is silent on** wherein when components needed for processing and displaying and displaying information are switched off, the received digital data is temporarily stored in a buffer and not processed until the components are switched on.

Knox teaches storing information for future use (C3, L25-28) which reads on temporarily storing when the system is switched off. The examiner notes that it is well known in the art to provide means for temporarily storing data should an electronic device be inadvertently turned off (eg. WINDOWS software will prompt when a user attempts to close a file that has been modified and/or will store data in a "temp file" if the system is not shut down properly).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Goodman in view of Knox, such that wherein when components needed for processing and displaying and displaying information are

switched off, the received digital data is temporarily stored in a buffer and not processed until the components are switched on, to provide means for storing data if the mobile is inadvertently turned off.

As per **claim 6**, Goodman in view of Knox teaches claim 1 **but is silent on** where the received data is packed in messages which are first evaluated in order to determine whether the messages are to be displayed.

- The examiner points out that the processing of data received has many possibilities, including FIFO, LIFO, etc. and the ways in which data is processed is a design choice since there are several possibilities that exist, each of which have their merits depending upon the situation/user environment. Knox is interpreted to provide FIFO processing since it is an interactive system that prefers action as a message is received.

It would have been obvious to one skilled in the art at the time of the invention to modify Goodman in view of Knox, such that data is evaluated in order to determine whether they must be displayed, to provide an "evaluation step" that determines whether the message(s) are important enough to be displayed or not.

As per **claim 8**, Goodman in view of Knox teaches claim 1 **but is silent on** wherein the digital data is transmitted in the radio channel

Knox teaches transmittal of program accompanying information in the RF channel (abstract).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Goodman in view of Knox, such that digital program data is transmitted in the radio channel, to provide means to conserve on radio channel resources.

As per **claim 13**, Goodman in view of Knox teaches claim 1 **but is silent on** wherein the prepared message is encrypted.

Since cellular/wireless systems broadcast RF data for all to receive, one skilled in the art would provide encryption to protect a user from having personal data being stolen.

It would have been obvious to one skilled in the art at the time of the invention to modify Goodman in view of Knox, such that the prepared message is encrypted, to ensure that the message cannot be read by anyone other than the intended recipient.

As per **claim 15**, Goodman in view of Knox teaches claim 14 wherein the mobile radio components include a cellular/GSM mobile device (MAPO device connects to cellular/GSM system, (figure 1, mobile #2 connects to cellular network #4).

As per **claim 19**, Goodman in view of Knox teaches claim 15 **but is silent on** a key causing information to be displayed on display.

Knox teaches a mobile device with display (figure 3) and various buttons which operate said mobile device and would be used to select/display program information (figure 3).

It would have been obvious to one skilled in the art at the time of the invention to modify Goodman in view of Knox, such that a display is provided, to provide means for the user to view any program data which is received.

Claims 4 and 16 rejected under 35 U.S.C. 103(a) as being unpatentable over Goodman in view of Knox as applied to claim 1 and further in view of Alperovich et al. US 6,138,002 (hereafter Alperovich).

As per **claim 4**, Goodman in view of Knox teaches claim 1 **but is silent on** wherein the digital data contains applets which are executed by the mobile device.

Alperovich teaches a system for providing services based upon broadcasted information (title) and that the SIM card can be a JAVA platform which allows the BSS to send a JAVA script containing the time period application and counter application to the MS, which can then be run on the SIM card (C5, L9-17).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Goodman in view of Knox, such that applets are

executed, to provide means various software applications to be used/downloaded by the user.

As per **claim 16**, Goodman in view of Knox teaches claim 15 **but is silent on** wherein the ID card is a SIM card capable of executing the applets transmitted in the program-accompanying data.

Alperovich teaches a system for providing services based on broadcasted information (title) and that the SIM card could include a JAVA platform which allows the BSS 380 to send a JAVA script 385 containing the time period application 320 and counter application 330 to the MS 300, which can then be run on the SIM card 310 (C5, L9-17.

It would have been obvious to one skilled in the art at the time of the invention to modify Goodman in view of Knox, such that the mobile can execute applets, to provide the user means for receiving a program downloaded by the media program to allow the user to interact with said media program (eg. the program may download a specific software application for the user to use for shopping, etc.).

Claims 7, 9-12 and 17-18 rejected under 35 U.S.C. 103(a) as being unpatentable over Goodman in view of Knox as applied to claim 1 and further in view of Bottum US 6,014,569 (hereafter Bottum).

As per **claim 7**, Goodman in view of Knox teaches claim 1 **but is silent on** wherein received messages which are not of interest to the user are sorted out with the aid of the user profile stored in the memory of the mobile device

Bottum teaches use of a User ID/profile or menu selection (C3, L57-67 teaches ID Data that can be used to identify audio selection from categories).

It would have been obvious to one skilled in the art at the time of the invention to modify Goodman in view of Knox, such that received messages not of interest are sorted based on user profile, to provide automatic sorting of messages based on the user's preferences per their profile.

As per **claim 9**, Goodman in view of Knox teaches claim 1 and a TV receiver **but is silent on** digital data transmitted in a TV channel.

Goodman does disclose video on demand (C3, L54-63).

Bottum teaches digital data transmitted in a audio channel. One skilled understands that both audio and video channels (eg. Radio and TV) can support the transmission of program digital data.

It would have been obvious to one skilled in the art at the time of the invention to modify Goodman in view of Knox, such that data is transmitted in a TV channel, to provide means for the user to receive program data via their RF transceiver (which negates the need for a second communication means).

As per **claims 10 and 17**, Goodman in view of Knox teaches claim 1 or 15 **but is silent on** wherein the prepared message is a SMS message.

Bottum teaches a device that can transmit/receive via cellular technology (eg. CDPD) and hence can support SMS messages which are known in the art [C1, L55-60 and C7, L49-60].

It would have been obvious to one skilled in the art at the time of the invention to modify Goodman in view of Knox, such that messages are sent via SMS, to provide support for well known industry cellular messaging standards.

As per **claims 11 and 18**, Goodman in view of Knox teaches claim 1 or 15 **but is silent on** wherein the prepared message is a USSD message.

Bottum teaches a device that can transmit/receive via cellular technology (eg. CDPD) and hence can support SMS/USSD messages which are known in the art [C1, L55-60 and C7, L49-60].

It would have been obvious to one skilled in the art at the time of the invention to modify Goodman in view of Knox, such that the prepared message is an USSD message, to take advantage of the USSD messaging capability existing today in the cellular industry.

As per **claim 12**, Goodman in view of Knox teaches claim 1 **but is silent on** wherein the prepared message is signed.

Bottum teaches a registration process (C3, L54-67 and C5, L33-40) which reads on signing the message. This parallels the applicant's limitation of the message being signed, since a user is essentially informing the network of who they are (eg. signing a message) when they register. Other ways of "signing a message" to identify the user include the use of a Hash function, public Key and the use of a secret password/login.

It would have been obvious to one skilled in the art at the time of the invention to modify Goodman in view of Knox, such that the prepared message is signed, to ensure the authenticity of the transmitted message.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

1. Hylton US 5,613,190

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. D'Agosta whose telephone number is 703-306-5426. The examiner can normally be reached on M-F, 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bill Trost can be reached on 703-308-5318. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SMD
3-25-04